IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 92 of 2004

Rajendra Singh Chauhan,
S/o late Ch. Baru Singh,
R/o Village Badripur,
Pargana Parwadoon,
District Dehradun

……. Revisionist

Versus

1. **Indresh Kumar,**
   S/o Late Ch. Baru Singh,
   R/o Village Badripur,
   Pargana Parwadoon,
   District Dehradun

2. **D.P. Singh,**
   S/o Shri Sobran Singh,
   R/o 121/64, Narishilp Mandir Marg,
   Dehradun.

3. **Rakesh Kumar,**
   S/o late Shri Surendra Singh,
   R/o Village Badripur,
   Pargana Parwadoon,
   District Dehradun.

…….. Respondents

Ms. Ram Ji Srivastava, learned counsel for the revisionist.
Mr. Lok Pal Singh, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the revisionist. Notices on behalf of the respondents are accepted by Mr. Lok Pal Singh, Advocate.

2) By means of this revision, the revisionist has challenged the order on rejection of his objection moved under Section 47 of the Code of Civil Procedure, 1908. From the perusal of the impugned order it appears that the revisionist is a third party

purchaser of less than ¼ share in the property in suit, while the decree was passed in favour of the plaintiff for specific performance of contract for sale of ¾ share of the property in suit, as such, the interest of the petitioner is not affected by the execution of the decree in question. It is settled principle of law, when there are more than one share holders in a property, the symbolic possession is delivered to the decree-holder / share-holder. Therefore, there appears no jurisdictional error or illegality in the impugned order, which requires interference of this Court under Section 115 of the Code of Civil Procedure, 1908. As such, the revision is dismissed in limine with the observation that the revisionist will be at liberty to file a suit for partition in respect of his share.

(Prafulla C. Pant, J.)

Dt. 21.12.2004
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